



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

NORTHERN REGIONAL OFFICE

13901 Crown Court, Woodbridge, Virginia 22193

(703) 583-3800 Fax (703) 583-3821

www.deq.virginia.gov

Molly Joseph Ward
Secretary of Natural Resources

David K. Paylor
Director

Thomas A. Faha
Regional Director

**STATE WATER CONTROL BOARD
ENFORCEMENT ACTION - ORDER BY CONSENT
ISSUED TO
THE FOUR WINDS CLUB, INC.
FOR
FOUR WINDS CAMPGROUND SEWAGE TREATMENT PLANT
VPDES Permit No. VA0060429**

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code § 62.1-44.15, between the State Water Control Board and The Four Winds Club, Inc., regarding the Four Winds Campground Sewage Treatment Plant, for the purpose of resolving certain violations of the State Water Control Law and the applicable permit and regulations.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "305(b) report" means the report required by Section 305(b) of the Clean Water Act (33 United States Code § 1315(b)), and Va. Code § 62.1-44.19:5 for providing Congress and the public an accurate and comprehensive assessment of the quality of State surface waters.
2. "Board" means the State Water Control Board, a permanent citizens' board of the Commonwealth of Virginia, as described in Va. Code §§ 10.1-1184 and 62.1-44.7.

3. “Department” or “DEQ” means the Department of Environmental Quality, an agency of the Commonwealth of Virginia, as described in Va. Code § 10.1-1183.
4. “Director” means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.
5. “Discharge” means discharge of a pollutant. 9 VAC 25-31-10
6. “Discharge of a pollutant” when used with reference to the requirements of the VPDES permit program means:
 - (a) Any addition of any pollutant or combination of pollutants to surface waters from any point source; or
 - (b) Any addition of any pollutant or combination of pollutants to the waters of the contiguous zone or the ocean from any point source other than a vessel or other floating craft which is being used as a means of transportation.
7. “DMR” means Discharge Monitoring Report.
8. “*E. coli*” means Escherichia Coli.
9. “Effluent” means wastewater – treated or untreated – that flows out of a treatment plant, sewer, or industrial outfall.
10. “Facility” or “Plant” means The Four Winds Campground Sewage Treatment Plant located at Route 17 South at the end of State Route 615 in Caroline County, Virginia, which treats and discharges treated sewage and other domestic wastes, for the Four Winds Campground and associated golf course clubhouse.
11. “Four Winds” means Four Winds Club, Inc., a corporation authorized to do business in Virginia and its affiliates, partners, and subsidiaries. Four Winds is a “person” within the meaning of Va. Code § 62.1-44.3.
12. “Notice of Violation” or “NOV” means a type of Notice of Alleged Violation under Va. Code § 62.1-44.15.
13. “NRO” means the Northern Regional office of DEQ, located in Woodbridge, Virginia.
14. “O&M” means operations and maintenance.
15. “Order” means this document, also known as a “Consent Order” or “Order by Consent,” a type of Special Order under the State Water Control Law.

16. "Permit" means VPDES Permit No. VA0060429, which was re-issued under the State Water Control Law and the Regulation to The Four Winds Club, Inc. on June 28, 2011 and which expires on June 27, 2016.
17. "Pollutant" means dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials (except those regulated under the Atomic Energy Act of 1954, as amended (42 USC § 2011 *et seq.*)), heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water... 9 VAC 25-31-10.
18. "Pollution" means such alteration of the physical, chemical, or biological properties of any state waters as will or is likely to create a nuisance or render such waters (a) harmful or detrimental or injurious to the public health, safety, or welfare or to the health of animals, fish, or aquatic life; (b) unsuitable with reasonable treatment for use as present or possible future sources of public water supply; or (c) unsuitable for recreational, commercial, industrial, agricultural, or other reasonable uses, provided that (i) an alteration of the physical, chemical, or biological property of state waters or a discharge or deposit of sewage, industrial wastes or other wastes to state waters by any owner which by itself is not sufficient to cause pollution but which, in combination with such alteration of or discharge or deposit to state waters by other owners, is sufficient to cause pollution; (ii) the discharge of untreated sewage by any owner into state waters; and (iii) contributing to the contravention of standards of water quality duly established by the Board, are "pollution." Va. Code § 62.1-44.3.
19. "Regulation" means the VPDES Permit Regulation, 9 VAC 25-31-10 *et seq.*
20. "State Water Control Law" means Chapter 3.1 (§ 62.1-44.2 *et seq.*) of Title 62.1 of the Va. Code.
21. "State waters" means all water, on the surface and under the ground, wholly or partially within or bordering the Commonwealth or within its jurisdiction, including wetlands. Va. Code § 62.1-44.3.
22. "Va. Code" means the Code of Virginia (1950), as amended.
23. "VAC" means the Virginia Administrative Code.
24. "VPDES" means Virginia Pollutant Discharge Elimination System.
25. "Warning Letter" or "WL" means a type of Notice of Alleged Violation under Va. Code § 62.1-44.15.

SECTION C: Findings of Fact and Conclusions of Law

1. Four Winds owns and operates the Plant. The Permit allows Four Winds to discharge treated sewage and other domestic wastes from the Plant, to the Rappahannock River in strict compliance with the terms and conditions of the Permit.
2. The segment of the Rappahannock River that the Facility discharges into is listed as not supporting the fish consumption use in the 2012 Integrated Water Quality Report, based upon the Virginia Department of Health PCB fish consumption advisory dated 12/13/04. In addition, this same segment of the Rappahannock River is also listed in the Draft 2014 Integrated Water Quality Report as not supporting the aquatic life use due to exceedances of the thirty day mean dissolved oxygen values during the summer season. This impairment is addressed by the Chesapeake Bay TMDL.
3. In submitting its DMRs, as required by the Permit, Four Winds has indicated that it exceeded discharge limitations contained in Part I.A.1 of the Permit, for the weekly concentration average maximum limit and monthly concentration average limit for Ammonia as Nitrogen (May-October), for the month of October 2014, and for the weekly average maximum limit and monthly concentration average limit for Ammonia as Nitrogen (November-April), for the month of December 2014. Four Winds indicated that it did not know what caused the interruption to the nitrification process leading to the Ammonia violations, however adjustments were made to the recirculation rate for the bioreactor and the reactor was reseeded. In addition, the discharge pipe integrity report due by January 10, 2015, required by Part I.C.13. of the Permit to be submitted by Four Winds on or before January 10 of each year, was submitted on July 6, 2015.
4. The January 2015 DMR due February 10, 2015, required by Part II.C. of the Permit to be submitted by Four Winds no later than the 10th day of the month after the monitoring takes place, was submitted February 17, 2015.
5. NRO issued Warning Letters and a Notice of Violation for the aforementioned violations: WL No. W2015-02-N-1008 issued on February 23, 2015; WL No. W2015-03-N-1003 issued on March 19, 2015, and NOV No. W2015-05-N-0002 issued on May 26, 2015.
6. Va. Code § 62.1-44.5 states that: “[E]xcept in compliance with a certificate issued by the Board, it shall be unlawful for any person to discharge into state waters sewage, industrial wastes, other wastes, or any noxious or deleterious substances.”
7. The Regulation, at 9 VAC 25-31-50, also states that except in compliance with a VPDES permit, or another permit issued by the Board, it is unlawful to discharge into state waters sewage, industrial wastes or other wastes.
8. Part I.A.1 of the Permit contains effluent limitations for the Plant.

9. Part I.C.13 of the Permit requires that Four Winds visually inspect and photograph the discharge pipe annually to confirm the integrity of the line, and submit this documentation to DEQ by January 10 of each year.
10. Part II.C of the Permit requires that Four Winds to submit the results of the monitoring required by this permit no later than the 10th day of the month after the monitoring takes place, unless another reporting schedule is specified elsewhere in this permit
11. Va. Code § 62.1-44.15(5a) states that a VPDES permit is a “certificate” under the statute.
12. The Department has issued no permits or certificates for the Plant to Four Winds other than VPDES Permit No. VA0060429.
13. The Rappahannock River is a surface water located wholly within the Commonwealth and is a “state water” under State Water Control Law.
14. Based on the results of DMRs submitted for October and December 2014, and records reviews by DEQ staff which documented the late submittal of the discharge pipe inspection report for 2015, the Board concludes that Four Winds has violated Va. Code § 62.1-44.5, 9 VAC 25-31-50, Part I.A.1, Part I.C.13, and Part II.C of the Permit, by discharging treated sewage and municipal wastes from the Plant while concurrently failing to comply with the conditions of the Permit, as described in paragraphs C(3) through C(11) above.
15. In order for Four Winds to return to compliance, DEQ staff and representatives of Four Winds have agreed to the Schedule of Compliance, which is incorporated as Appendix A of this Order.

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it in Va. Code §§ 62.1-44.15, the Board orders Four Winds, and Four Winds agrees to:

1. Perform the actions described in Appendix A of this Order; and
2. Pay a civil charge of \$7,850.00 within 30 days of the effective date of the Order in settlement of the violations cited in this Order.

Payment shall be made by check, certified check, money order or cashier’s check payable to the “Treasurer of Virginia,” and delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 1104
Richmond, Virginia 23218

Four Winds shall include its Federal Employer Identification Number (FEIN) with the civil charge payment and shall indicate that the payment is being made in accordance with the requirements of this Order for deposit into the Virginia Environmental Emergency Response Fund (VEERF). If the Department has to refer collection of moneys due under this Order to the Department of Law, Four Winds shall be liable for attorneys' fees of 30% of the amount outstanding.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend this Order with the consent of Four Winds for good cause shown by Four Winds, or on its own motion pursuant to the Administrative Process Act, Va. Code § 2.2-4000 *et seq.*, after notice and opportunity to be heard.
2. This Order addresses and resolves only those violations specifically identified in Section C of this Order. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility; or (3) taking subsequent action to enforce the Order.
3. For purposes of this Order and subsequent actions with respect to this Order only, Four Winds admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.
4. Four Winds consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. Four Winds declares it has received fair and due process under the Administrative Process Act and the State Water Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to modify, rewrite, amend, or enforce this Order.
6. Failure by Four Winds to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.

8. Four Winds shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other unforeseeable circumstances beyond its control and not due to a lack of good faith or diligence on its part. Four Winds shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Four Winds shall notify the DEQ Regional Director verbally within 24 hours and in writing within three business days when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
 - a. the reasons for the delay or noncompliance;
 - b. the projected duration of any such delay or noncompliance;
 - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
 - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director verbally within 24 hours and in writing within three business days, of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto and any successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and Four Winds. Nevertheless, Four Winds agrees to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until:
 - a. The Director or his designee terminates the Order after Four Winds has completed all of the requirements of the Order;
 - b. Four Winds petitions the Director or his designee to terminate the Order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or
 - c. the Director or Board terminates the Order in his or its sole discretion upon 30 days' written notice to Four Winds.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Four Winds from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. Any plans, reports, schedules or specifications attached hereto or submitted by Four Winds and approved by the Department pursuant to this Order are incorporated into this Order. Any non-compliance with such approved documents shall be considered a violation of this Order.
13. The undersigned representative of Four Winds certifies that he or she is a responsible official authorized to enter into the terms and conditions of this Order and to execute and legally bind Four Winds to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of Four Winds.
14. This Order constitutes the entire agreement and understanding of the parties concerning settlement of the violations identified in Section C of this Order, and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Order.
15. By its signature below, Four Winds voluntarily agrees to the issuance of this Order.

And it is so ORDERED this _____ day of _____, 2015.

Thomas A. Faha, Regional Director
Department of Environmental Quality

----- (Remainder of Page Intentionally Blank) -----

The Four Winds Club, Inc. voluntarily agrees to the issuance of this Order.

Date: 07/20/2015 By: [Signature] President
(Person) (Title) (Register Agent)
The Four Winds Club Inc.

Commonwealth of Virginia
City/County of CAROLINE

The foregoing document was signed and acknowledged before me this 20 day of July, 2015, by Bruce Tutor who is President of The Four Winds Club Inc., on behalf of the corporation.

[Signature]
Notary Public

324133
Registration No.

My commission expires: July 31, 2018

Notary seal:

I was commissioned
a Notary public as
Gabriel Nielsen

APPENDIX A SCHEDULE OF COMPLIANCE

The Four Winds Club, Inc. shall:

1. Submit a copy of the current contract between Four Winds and the STP operator by August 15, 2015. Should said contract not include responsibility for the annual discharge pipe integrity inspection and report, Four Winds shall consider including said responsibility as a contract term. Proof of this assignment of responsibility shall be submitted by September 1, 2015. In the alternative, Four Winds shall provide DEQ with a written plan detailing what steps Four Winds intends to take to comply with Part I.C.13 of the Permit. Said plan should include clarification regarding which individual or individuals shall perform the inspection, complete the report, and submit the report to DEQ, a schedule for said tasks, and steps Four Winds intends to take to adhere to this plan and schedule. Said plan and schedule shall be submitted to DEQ for review and comment by September 1, 2015. Once notified by DEQ, Four Winds shall comply with this plan immediately.

2. DEQ Contact

Unless otherwise specified in this Order, The Four Winds Club, Inc. shall submit all requirements of Appendix A of this Order to:

Attention Enforcement
VA- DEQ Northern Regional Office
13901 Crown Court
Woodbridge, VA 22193